

Message Text

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E.O. 11652: N/A

TAGS: MARR, SP

SUBJECT: SPANISH - U.S. POL ARRANGEMENTS: PROCEDURAL
ANNEXES XI AND XII

REFS: (A) JUSMG MAAG MADRID 151050Z FEB 78
(B) STATE 035187

1. CHANGES TO DRAFT REVISED PROCEDURAL ANNEX XI DESCRIBED
IN PARAS 2 AND 3 OF REF B ARE DESIRABLE FOR REASONS OF
CLARITY AND ACCURACY, BUT IN AND OF THEMSELVES ARE NOT
ESSENTIAL. THEY WOULD NOT HAVE BEEN PROPOSED WERE IT
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NOT FOR THE NECESSITY OF MAKING THE CHANGES SET FORTH
IN PARAS 4 AND 5 OF REF B WHICH ARE REQUIRED FOR REASONS
OF LEGAL SUFFICIENCY.

2. REASONS GIVEN BY SPANISH AS DESCRIBED IN PARA 2.C OF
REF A FOR OMISSION OF WORDS "AND THEREAFTER" FROM PARA 10
OF PROCEDURAL ANNEX XI ARE NOT PERSUASIVE. NOTHING IN

CLAIMS PROVISIONS OF SECTION II OF AGREEMENT IN IMPLEMENTATION WOULD PLACE CLAIMS RESPONSIBILITY FOR TERMINAL RELATED CLAIMS ON THE GOS, PARTICULARLY IF PROCEDURAL ANNEX XI EXPRESSLY PROVIDED FOR SUCH RESPONSIBILITY ONLY DURING TRANSFER OF THE TERMINALS. WE WOULD ALSO NOTE THAT PREVIOUS POL ARRANGEMENTS EMPLOYED "AND

THEREAFTER" FORMULATION, AND DELETION FROM PRESENT AGREEMENT COULD PREJUDICE USG POSITION. ACCORDINGLY, CHANGE DESCRIBED IN PARA 4 OF REF B MUST BE RAISED WITH GOS.

3. TRANSFERS OF U.S. PROPERTY MUST BE IN ACCORDANCE WITH STATUTORY AUTHORITY OR EXPRESS TERMS OF A TREATY. THEREFORE, CHANGES DESCRIBED IN PARA 5 OF REF B, OR SUITABLE ALTERNATIVE SUCH AS WORDING OF LAST TWO SENTENCES OF PARA 3.2 OF 1970 PROCEDURAL ANNEX XI, MUST BE MADE.

4. DEPARTMENT AND DOD DEFER TO EMBASSY AND JUSMG MAAG DISCRETION REGARDING MATTER DISCUSSED IN PARA 6 OF REF B AND PARA 2.E OF REF A. WE WOULD APPRECIATE ANY FURTHER INFORMATION EMBASSY MAY HAVE REGARDING CAMPSA MOTIVATION FOR SEEKING TRANSFER OF THE TERMINALS IF CAMPSA DOES NOT INTEND EXPANDED NON-MILITARY USE OF THEM.

5. THE FOLLOWING CHANGES SHOULD BE MADE TO THE UNCLASSIFIED

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DRAFT "FIRST PERSON NOTE" ON REIMBURSEMENT:

A. AMEND THE LAST SENTENCE OF THE SECOND PARAGRAPH TO READ AS FOLLOWS: "THIS WOULD BE A FIXED ANNUAL CONTRIBUTION PAYABLE EACH FULL CALENDAR YEAR BEGINNING WITH CALENDAR YEAR 1978, AND CONTINUING THROUGH EACH OF THE REMAINING YEARS OF THE LIFE OF THE TREATY DURING WHICH THE UNITED STATES FORCES UTILIZE THE PIPELINE AND OFF-BASE STORAGE FACILITIES IN ACCORDANCE WITH PROCEDURAL ANNEX XI." REASON: AS WORDED, THIS SENTENCE COULD BE CONSTRUED AS REQUIRING USAF TO MAKE THE ANNUAL PAYMENTS DURING "THE LIFE OF THE TREATY" EVEN IF THE U.S. FORCES CEASE TO ACTUALLY USE THE PIPELINE AND TERMINALS.

B. CHANGE THE REFERENCE TO "THE UNITED STATES AIR FORCE" IN THE THIRD PARAGRAPH TO "UNITED STATES FORCES." THE SAME CHANGE SHOULD BE MADE WITH RESPECT TO THE FIRST REFERENCE TO USAF IN THE FOURTH PARAGRAPH.

REASON: U.S. NAVY POL SHOULD ALSO BE COVERED BY THE AGREEMENT.

6. THE DRAFT "THIRD PERSON NOTE" WOULD APPEAR TO BE
OVERTAKEN BY EVENTS. WHAT IS REQUIRED NOW IS A NOTE
REPLYING TO THE FIRST PERSON NOTE CONFIRMING AGREE-
MENT IN ACCORDANCE WITH ITS TERMS. EMBASSY IS
REQUESTED TO PROVIDE TEXT OF A REPLY NOTE FOR REVIEW
AND ADVISE WHETHER AND WHY "THIRD PERSON NOTE" IS
STILL REQUIRED. VANCE

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